

REMARKS

Reconsideration of the present application is respectfully requested. Claims 1-96 were originally presented. Claims 48-96 have been withdrawn as being drawn to a non-elected invention. Claims 1, 12, 20, 22, 25, and 39 are amended herein and claim 3 has been canceled, so that claims 1, 2, 4-47, and 97-106 are presently pending. Claims 1, 25, 42, and 97 are in independent form.

In the Office Action dated July 14, 2005, the Examiner states that claim 20 is objected to because a word appears to be missing after the word "positioned" in the last line of the claim. Applicants have amended claim 20 to include the word "lower" after the word "positioned." Support for this amendment can be found in the specification, page 8, lines 1-2. Thus, Applicants respectfully request this objection be withdrawn.

In the Office Action, the Examiner rejected independent claims 1 and 25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,873,248 to Tate et al. (hereinafter, Tate). Applicants submit that claims 1 and 25, as amended, are not anticipated by the prior art, including Tate. Applicants have amended claims 1 and 25 to additionally recite a regenerator receiver. Support for these amendments may be found, for example, in original claims 3 and 39. Applicants submit that Tate fails to disclose a regenerator receiver. In fact, in the Office Action, the Examiner states that "the Tate reference does not disclose an apparatus that includes a regenerator receiver...." (Office Action, p. 5, lines 7-8). Thus, Tate does not disclose all the elements recited in independent claims 1 and 25, as amended.

In the Office Action, the Examiner rejected independent claim 42 under 35 U.S.C. § 103(a) as being unpatentable over Tate in view of Thompson et al. (US 2003/0192811 A1) (hereinafter, Thompson). According to 35 U.S.C. § 103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made,...subject to an obligation of assignment to the same person." Applicants submit that Thompson can not preclude patentability of the present invention

because (1) the subject matter of Thompson was developed by another person, (2) Thompson qualifies as prior art only under 35 U.S.C. § 102(e), and (3) Thompson and the present invention were subject to an obligation of assignment to the same assignee at the time of invention. Thus, according to 35 U.S.C. § 103(c), Thompson can not be used in an obviousness rejection of the present invention.

In rejecting claim 42, the Examiner relies on Thompson to cure the deficiencies of Tate for failing to disclose a regenerator receiver and lockhoppers. In the absence of Thompson, Tate fails to disclose all of the elements recited in independent claim 42. Therefore, independent claim 42 should now be in condition for allowance. Additionally, because any claim depending from a patentable claim is also patentable, claims 43-47, which depend from independent claim 42, should also now be in condition for allowance.

Although independent claims 1 and 25 were not rejected as being unpatentable over Tate in view of Thompson, Applicants have amended claims 1 and 25 employing language found in original claims 3 and 39, which were rejected over this combination of references. Amended claims 1 and 25, as mentioned above, each recite a regenerator receiver. For the same reasons as applied to independent claim 42, Tate, in the absence of Thompson, cannot render obvious independent claims 1 and 25, as amended, because, for example, Tate fails to disclose a regenerator receiver. Therefore, independent claims 1 and 25 should now be in condition for allowance. Additionally, because any claim depending from a patentable claim is also patentable, claims 2 and 4-24, which depend from independent claim 1, and claims 26-41, which depend from independent claim 25, should also now be in condition for allowance.

Claims 97-106 have been added to further define the present invention. Applicants submit that new claims 97-106 are patentable over the prior art.

Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions, please contact the undersigned at (800) 445-3460.

Application No. 10/798,821
Amendment dated October 13, 2005
Reply to Office Action of July 14, 2005

A check in the amount of \$650.00 also accompanies this Amendment for the 9 additional claims, one of which is independent. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 19-0522.

Respectfully submitted,

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